

107TH CONGRESS
2D SESSION

S. 3154

To amend the Internal Revenue Code of 1986 to combat fuel excise tax fraud.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 13, 2002

Mr. GRASSLEY (for himself and Mr. BAUCUS) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to combat
fuel excise tax fraud.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TRANSFER BY REGISTERED PIPELINE OR VES-**
4 **SEL REQUIRED FOR FUEL TAX EXEMPTION**
5 **OF BULK TRANSFERS TO REGISTERED TER-**
6 **MINALS OR REFINERIES.**

7 (a) IN GENERAL.—Section 4081(a)(1)(B) of the In-
8 ternal Revenue Code of 1986 (relating to exemption for
9 bulk transfers to registered terminals or refineries) is
10 amended—

1 (1) by inserting “by pipeline or vessel” after
 2 “transferred in bulk”, and

3 (2) by inserting “, the operator of the pipeline
 4 or vessel,” after “the taxable fuel”.

5 (b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS
 6 BY NONREGISTERED PIPELINES OR VESSELS.—

7 (1) IN GENERAL.—Part II of subchapter B of
 8 chapter 68 of the Internal Revenue Code of 1986
 9 (relating to assessable penalties) is amended by add-
 10 ing at the end the following new section:

11 **“SEC. 6717. CARRYING TAXABLE FUELS BY NONREG-**
 12 **ISTERED PIPELINES OR VESSELS.**

13 “(a) IMPOSITION OF PENALTY.—If any taxable fuel
 14 (as defined in section 4083(a)(1)) is willfully carried by
 15 pipeline or vessel the operator of which is not registered
 16 under section 4101, then such operator shall pay a penalty
 17 in addition to the tax (if any).

18 “(b) AMOUNT OF PENALTY.—

19 “(1) IN GENERAL.—Except as provided in para-
 20 graph (2), the amount of the penalty under sub-
 21 section (a) on each act shall be \$10,000.

22 “(2) MULTIPLE VIOLATIONS.—In determining
 23 the penalty under subsection (a) on any person,
 24 paragraph (1) shall be applied by increasing the
 25 amount in paragraph (1) by the product of such

1 amount and the number of prior penalties (if any)
 2 imposed by this section on such person (or a related
 3 person or any predecessor of such person or related
 4 person).

5 “(c) JOINT AND SEVERAL LIABILITY.—

6 “(1) IN GENERAL.—If a penalty is imposed
 7 under this section on any business entity, each offi-
 8 cer, employee, or agent of such entity or other con-
 9 tracting party who willfully participated in any act
 10 giving rise to such penalty shall be jointly and sever-
 11 ally liable with such entity for such penalty.

12 “(2) AFFILIATED GROUPS.—If a business entity
 13 described in paragraph (1) is part of an affiliated
 14 group (as defined in section 1504(a)), the parent
 15 corporation of such entity shall be jointly and sever-
 16 ally liable with such entity for the penalty imposed
 17 under this section.”.

18 (2) CLERICAL AMENDMENT.—The table of sec-
 19 tions for part II of subchapter B of chapter 68 of
 20 such Code is amended by adding at the end the fol-
 21 lowing new item:

“Sec. 6717. Carrying taxable fuels by nonregistered pipelines or
 vessels.”.

22 (c) EFFECTIVE DATE.—The amendments made by
 23 this section shall take effect on January 1, 2003.

1 **SEC. 2. RETURNS FILED ELECTRONICALLY.**

2 (a) IN GENERAL.—Section 4083 of the Internal Rev-
 3 enue Code of 1986 (relating to definitions; special rule;
 4 administrative authority) is amended by adding at the end
 5 the following new subsection:

6 “(d) RETURNS REQUIRED TO BE FILED ELEC-
 7 TRONICALLY.—

8 “(1) FUEL.—Any registered operator of a ter-
 9 minal, refinery, pipeline, or vessel, or any registered
 10 dealer in aviation fuel, having more than 25 trans-
 11 actions in a month shall file by electronic format any
 12 return required by the Secretary for the tracking of
 13 fuel.

14 “(2) VEHICLES.—Any person required to file a
 15 return under section 4481 having at least 25 vehi-
 16 cles shall file such return by electronic format.”.

17 (b) FORMAT FOR FILING.—The Secretary of the
 18 Treasury shall describe the electronic format for filing—

19 (1) in the case of returns described in section
 20 4083(d)(1) of the Internal Revenue Code of 1986
 21 (as added by subsection (a)), not later than 30 days
 22 after the date of the enactment of this Act, and

23 (2) in the case of returns described in section
 24 4083(d)(2) of such Code (as so added), not later
 25 than 90 days after such date.

1 (c) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to returns due after the date the
 3 Secretary of the Treasury describes the format for filing
 4 under subsection (b).

5 **SEC. 3. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE**
 6 **FOR USE OR NOT IN A DIESEL-POWERED VE-**
 7 **HICLE OR TRAIN.**

8 (a) IN GENERAL.—Section 4083(a)(3) of the Internal
 9 Revenue Code of 1986 (defining diesel fuel) is amended
 10 by adding at the end the following new sentence: “For
 11 purposes of section 4081(a)(1)(A)(iv), such term includes
 12 any liquid (other than gasoline) sold or offered for sale
 13 whether or not such fuel is suitable for such use.”.

14 (b) EFFECTIVE DATE.—The amendment made by
 15 this section shall take effect on the date of the enactment
 16 of this Act.

17 **SEC. 4. CIVIL PENALTY FOR REFUSAL OF ENTRY.**

18 (a) IN GENERAL.—Part II of subchapter B of chap-
 19 ter 68 of the Internal Revenue Code of 1986 (relating to
 20 assessable penalties), as amended by this Act, is amended
 21 by adding at the end the following new section:

22 **“SEC. 6718. REFUSAL OF ENTRY.**

23 “In addition to any criminal penalty provided by law,
 24 in the case of any person with the intent to transport and
 25 distribute untaxed, adulterated fuel mixtures or to trans-

1 port and distribute dyed diesel for taxable use, if such per-
 2 son refuses to admit entry or refuses to permit any other
 3 action by the Secretary authorized by section 4083(c)(1),
 4 then such person shall pay a penalty of \$1,000 for such
 5 refusal.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 4083(c)(3) of the Internal Revenue
 8 Code of 1986 is amended—

9 (A) by striking “ENTRY.—The penalty”
 10 and inserting: “ENTRY.—

11 “(A) FORFEITURE.—The penalty”, and

12 (B) by adding at the end the following new
 13 subparagraph:

14 “(B) CIVIL PENALTY.—For a civil penalty
 15 for the refusal to admit entry or other refusal
 16 to permit an action by the Secretary authorized
 17 by paragraph (1), see section 6718.”.

18 (2) The table of sections for part II of sub-
 19 chapter B of chapter 68 of such Code, as amended
 20 by this Act, is amended by adding at the end the fol-
 21 lowing new item:

“Sec. 6718. Refusal of entry.”.

22 (c) EFFECTIVE DATE.—The amendments made by
 23 this section shall take effect on January 1, 2003.

1 **SEC. 5. DISPLAY OF REGISTRATION.**

2 (a) IN GENERAL.—Section 4101 of the Internal Rev-
 3 enue Code of 1986 (relating to registration and bond) is
 4 amended by adding at the end the following new sub-
 5 section:

6 “(e) DISPLAY OF REGISTRATION.—Every person re-
 7 quired by the Secretary to register under this section with
 8 respect to tax imposed by section 4041(a)(1), 4081, or
 9 4091 shall receive and display proof of registration on ves-
 10 sels used in transporting fuel.”.

11 (b) EFFECTIVE DATE.—The amendments made by
 12 this section shall take effect on January 1, 2003.

13 **SEC. 6. UNTAXED ADULTERATED FUEL MIXTURES TREAT-**
 14 **ED AS DYED FUELS UNDER PENALTY PROVI-**
 15 **SION.**

16 (a) IN GENERAL.—Section 6715(c)(1) of the Internal
 17 Revenue Code of 1986 (defining dyed fuel) is amended by
 18 inserting “, any dyed diesel fuel or kerosene which has
 19 been chemically altered in an attempt to remove the dye,
 20 or any other adulterated fuel mixture not previously
 21 taxed” after “section 4082”.

22 (b) EFFECTIVE DATE.—The amendment made by
 23 this section shall take effect on the date of the enactment
 24 of this Act.

1 **SEC. 7. TAX AT POINT OF ENTRY WHERE IMPORTER NOT**
 2 **REGISTERED.**

3 (a) IN GENERAL.—Section 4081(a)(1) of the Internal
 4 Revenue Code of 1986 (relating to tax on entry, removal,
 5 or sale) is amended by adding at the end the following
 6 new subparagraph:

7 “(C) TAX AT ENTRY WHERE IMPORTER
 8 NOT REGISTERED.—

9 “(i) IN GENERAL.—For purposes of
 10 subparagraph (A)(iii), if the person enter-
 11 ing the taxable fuel is not registered under
 12 section 4101, the imposition of the tax is
 13 at the time and point of entry.

14 “(ii) JEOPARDY ASSESSMENT.—The
 15 collection of any tax imposed on fuel de-
 16 scribed in clause (i) shall be deemed to be
 17 in jeopardy and the Secretary shall make
 18 an immediate assessment under section
 19 6862.

20 “(iii) ENFORCEMENT OF ASSESS-
 21 MENT.—The fuel described in clause (i)
 22 and the vehicle or vessel in which such fuel
 23 was transported shall be detained for the
 24 period ending with—

1 “(I) the filing of a bond by the
 2 importer of record under section
 3 6863(a), or

4 “(II) if such a bond is not filed
 5 within the 5-day period beginning
 6 with such detaining, the sale of such
 7 fuel as provided under section 6336.”.

8 (b) EFFECTIVE DATE.—The amendment made by
 9 this section shall take effect on the date of the enactment
 10 of this Act.

11 **SEC. 8. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHI-**
 12 **CLES.**

13 (a) INCREASE IN RATE OF TAX.—The table con-
 14 tained in section 4481(a) of the Internal Revenue Code
 15 of 1986 (relating to imposition of tax) is amended by
 16 striking “\$550” and inserting “\$600”.

17 (b) NO PRORATION OF TAX UNLESS VEHICLE IS DE-
 18 STROYED OR STOLEN.—

19 (1) IN GENERAL.—Section 4481(c) of the Inter-
 20 nal Revenue Code of 1986 (relating to proration of
 21 tax) is amended to read as follows:

22 “(c) PRORATION OF TAX WHERE VEHICLE DE-
 23 STROYED OR STOLEN.—

24 “(1) IN GENERAL.—If in any taxable period a
 25 highway motor vehicle is destroyed or stolen before

1 the first day of the last month in such period and
 2 not subsequently used during such taxable period,
 3 the tax shall be reckoned proportionately from the
 4 first day of the month in such period in which the
 5 first use of such highway motor vehicle occurs to
 6 and including the last day of the month in which
 7 such highway motor vehicle was destroyed or stolen.

8 “(2) DESTROYED.—For purposes of paragraph
 9 (1), a highway motor vehicle is destroyed if such ve-
 10 hicle is damaged by reason of an accident or other
 11 casualty to such an extent that it is not economic to
 12 rebuild.”.

13 (2) DISPLAY OF TAX CERTIFICATE.—Paragraph
 14 (2) of section 4481(d) of such Code (relating to one
 15 tax liability for period) is amended to read as fol-
 16 lows:

17 “(2) DISPLAY OF TAX CERTIFICATE.—Every
 18 person, agency, or instrumentality which pays the
 19 tax imposed under this section with respect to a
 20 highway motor vehicle shall, not later than October
 21 1 with respect to each taxable period, receive and
 22 display on such vehicle a proof of payment decal.”.

23 (3) CONFORMING AMENDMENTS.—

1 (A) Section 6156 of such Code (relating to
2 installment payment of tax on use of highway
3 motor vehicles) is repealed.

4 (B) The table of sections for subchapter A
5 of chapter 62 of such Code is amended by strik-
6 ing the item relating to section 6156.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable periods beginning after
9 the date of the enactment of this Act.

10 **SEC. 9. ADDITIONAL RULES REGARDING INSPECTIONS OF**
11 **RECORDS.**

12 (a) PROVISION OF COPIES OF RECORDS.—Section
13 4102 of the Internal Revenue Code of 1986 (relating to
14 inspection of records by local officers) is amended by in-
15 serting “, and copies shall be furnished upon request of,”
16 after “inspection by”.

17 (b) INSPECTION BY OTHER ENFORCEMENT AGEN-
18 CIES.—Section 4102 of the Internal Revenue Code of
19 1986, as amended by subsection (a), is amended by insert-
20 ing “, and information on returns required to be filed with
21 respect to taxes under section 4481 shall be open to in-
22 spection by officers of any State agency charged with the
23 registration and licensing of vehicles described in such sec-
24 tion and officers of any other Federal or State agency
25 charged with the enforcement of Federal or State law re-

1 guarding motor fuels or criminal activities regarding motor
2 fuels” after “section 4083”).

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act.

6 **SEC. 10. AUTHORITY TO INSPECT ON-SITE RECORDS.**

7 (a) IN GENERAL.—Section 4083(c)(1)(A) of the In-
8 ternal Revenue Code of 1986 (relating to administrative
9 authority) is amended by striking “and” at the end of
10 clause (i) and by inserting after clause (ii) the following
11 new clause:

12 “(iii) inspecting any books and
13 records to determine the names and ad-
14 dresses of the persons selling or pur-
15 chasing such fuel, and”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect on the date of the enactment
18 of this Act.

19 **SEC. 11. PROHIBITION OF ADMINISTRATIVE REVIEW OF**
20 **PENALTY FOR TAXABLE USE OF DYED DIESEL**
21 **FUEL.**

22 (a) IN GENERAL.—Section 6406 of the Internal Rev-
23 enue Code of 1986 (relating to prohibition of administra-
24 tive review of decisions) is amended—

1 (1) by striking “In the absence” and inserting
2 “(a) IN GENERAL.—In the absence”, and

3 (2) by adding at the end the following new sub-
4 section:

5 “(b) PENALTY DECISION REGARDING TAXABLE USE
6 OF DYED DIESEL FUEL.—In the absence of fraud or mis-
7 take in chemical analysis or mathematical calculation, if
8 the findings of fact by chemical analysis show the presence
9 of dye in diesel fuel being used on the highway, the asser-
10 tion of the penalty under section 6715 shall not be subject
11 to appeal to or review by any other administrative or ac-
12 counting officer, employee, or agent of the United
13 States.”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on the date of the enactment
16 of this Act.

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